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BEFORE THE

Federal Communications Commission RECEIVED

WASHINGTON, D.C. 20554

JAN 26 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Implementation of Section 3 of
the Cable Television Consumer
Protection and Competition Act
of 1992

Tier Buy-Through Prohibitions

MM Docket No. 92-262

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF
NEWHOUSE BROADCASTING CORPORATION**

Newhouse Broadcasting Corporation ("Newhouse") hereby
submits reply comments in response to comments filed in the
Notice of Proposed Rulemaking in the above-captioned proceeding
("Notice").

In its initial comments Newhouse took the position that any
cable system which had to incur more than nominal costs to comply
with the buy-through prohibition should not be required to comply
immediately, but instead should be given leeway to come into
compliance within the ten-year grace period provided in the
statute. This was based on the legislative history's recognition
of the difficult technical issues, significant economic costs and
effect on subscriber rates, equipment compatibility, consumer

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friendliness and other factors which cable systems will face in a conversion to a regime where no buy-through from the basic service is required to obtain premium services. In particular, Newhouse attempted to explain that only fully addressable systems are presently in a position to implement this requirement without incurring significant costs and causing considerable disruption to their subscribers. Some commenters, however, have tried to maintain the myth that if a cable system employs addressable converters, compliance with the buy-through prohibition is a simple matter which can be accomplished immediately at very little cost and effort. Newhouse would like to dispel that myth in these reply comments.

Most cable systems with addressable converters are not fully addressable, but instead use a mix of addressability, scrambling and traps as part of their configuration. Such systems are usually configured to trap out all expanded tiers above the basic service level. Access to expanded service tiers is then provided by manual removal of the trap from the subscriber's premises. Pay per channel and per program services are usually scrambled and placed on channels within or above the expanded service tiers. A subscriber to the basic service who wishes to purchase, say, HBO will typically not already have a converter in his home since one is not needed to purchase just the basic service (or, indeed, even an expanded service tier). Thus, a new converter box will have to be placed in that subscriber's home. In addition, the subscriber, who is buying only basic service and

HBO, if nothing further is done, would also be able to view the expanded service tier since it is typically not scrambled and the trap has been removed, thus compromising signal security.

The most obvious method of resolving this dilemma and coming into compliance with the buy-through prohibition would be to convert to full addressability, a very costly process. The system would have to scramble all video programming other than the basic service level and have addressable converter boxes available for all subscribers desiring any of the scrambled services. Scrambling would cost the system operator approximately \$50,000 for a headend controller, several thousand dollars for computer software to interface with the controller, \$2000 per channel for encoding, and \$140-\$200 for each installed addressable converter provided to subscribers (as noted above, many subscribers in so-called addressable systems do not have addressable converters in their homes). Furthermore, every trap in the system would have to be removed at a significant cost in labor and time.

Of equal importance, scrambled signals are incompatible with many VCRs and television sets. As to VCRs, the ability to watch one program while taping another is affected, as is the ability to sequentially tape shows on different channels. Subscribers with cable-ready television sets can presently receive all unscrambled services without a converter. Scrambling would require these subscribers to acquire and use converters, even if they did not change the service they were receiving and had no

desire to purchase a pay channel. This is decidedly not consumer-friendly since it would render useless many of the features on cable-ready television sets, such as the remote control, and would involve a significant charge or an increase in the monthly rate to recover the scrambling and box costs. Customer outcry when something like this happens cannot be overestimated. Moreover, Section 17 of the 1992 Cable Act expresses Congress' concern about just such equipment incompatibility.

An intermediate method of compliance which some have suggested would be for the cable operator to trap out the basic-only subscriber's access to the expanded service tiers and any unscrambled pay services. This would involve many of the costs and inconvenience described above except for the need to scramble every non-basic channel, but it would increase the time and material cost for trapping since traps would not just have to be removed but replaced with new traps. A typical cost for a process of this sort would be about \$40 per trap. Furthermore, when the system changes its channel configuration, i.e., increases or decreases the number of channels on the basic or expanded service tiers, every trap at every subscriber premises would again have to be changed.

Another method would be to reconfigure the channel lineup so that the premium channels would be located immediately above the basic service level. Again, this requires costly headend hardware and software adjustments, placing a trap above the

premium channels for every subscriber who does not want to purchase the expanded service, scrambling all premium services and providing addressable converters to many subscribers who had no need for them before. In addition, home visits would be necessary to reconfigure many VCRs for recording. Finally, such a repositioning of the channels would restrict a system's future ability to add premium services.

The above discussion has focused on premium services which are scrambled and placed on upper channels. An additional issue is raised for systems which might be trapping an older premium service, such as HBO, on a lower channel. A basic-only subscriber might therefore already be able to purchase that unscrambled service, but he cannot purchase one of the scrambled premium services without the system taking the steps described above. This partial ability to comply with the buy-through provision should not trigger an immediate requirement to either fully comply due to the problems noted above, nor to partially comply to provide only "trapped" pay services on a buy-through basis, a step which would be competitively disadvantageous to other premium services.

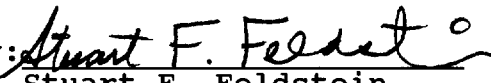
The bottom line which Newhouse wishes to stress is that the existence of addressable converters in partially-addressable systems does not necessarily solve the buy-through situation. As described above, there are tremendous costs and extreme customer inconvenience to be considered in complying with this requirement. Moreover, the addressable technology now in use is

analog, and systems should not be made to invest in more of that technology at a time when digital addressability and signal compression are just coming on the market. The purpose of the ten-year transition period is to permit time for the efficient resolution of such problems.

Therefore, Newhouse strongly urges the Commission not to require immediate compliance with the buy-through prohibition where more than nominal costs are involved but, instead, to allow cable operators the time which the statute allows to come into compliance so as to spread the costs over time, minimize subscriber disruption and discontent, and permit technological evolution to offer better solutions to the problem.

Respectfully submitted,

NEWHOUSE BROADCASTING CORPORATION

By: 
Stuart F. Feldstein
Howard S. Shapiro

FLEISCHMAN AND WALSH
1400 Sixteenth Street, N.W.
Washington, D.C. 20036
(202) 939-7900

Its Attorneys

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